



Paper No. 5

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OFFICE OF PETITIONS

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND MI 48641-1967

In re Application of
Kazmierski & Jenkins
Application No. 09/976,366
Filed: October 12, 2001
Attorney Docket No. 42741D
For: MÉCHANICALLY FROTHED AND
CHEMICALLY BLOWN POLYURETHANE
FOAM

DECISION ON PETITIONS

This is a decision on (1) the petition under 37 CFR 1.47(a), filed October 12, 2001 and (2) the petition entitled, "RESPONSE TO NOTICE TO FILE MISSING PARTS," filed January 23, 2002 (certificate of mailing date December 21, 2001). The petition filed on January 23, 2002 will be treated as a petition under 37 CFR 1.181 to withdraw the Notice to File Missing Parts of Nonprovisional Application, mailed October 24, 2001.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application was filed on October 12, 2001 without an executed oath or declaration. Accordingly, on October 24, 2001, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, petitioner filed the "RESPONSE TO NOTICE TO FILE MISSING PARTS," on January 23, 2002 (certificate of mailing date December 21, 2001).

Petitioner alleges that on October 12, 2001, petitioner filed (1) a copy of an executed declaration filed in Application No. 08/785,077, of which the instant filing is a divisional application, and (2) a copy of the decision, mailed on February 18, 1998, granting a petition to accord § 1.47 status to the prior application. A review of the application file reveals these two documents are present and contain an Office generated barcode affixed thereto that states the papers were filed on October 12, 2001. Therefore, the October 24, 2001 Notice was mailed in error and is hereby vacated.

The above-identified application and papers, filed October 12, 2001, have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. No fee has been or will be charged.

Office will not forward notice of this application's filing to the non-signing inventor because forwarding the filing of the prior application has already been sent to the non-signing

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-67212.



E. Shirene Willis
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy